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Attorneys for Plaintiffs RICHARD CEJA,
 FINN O' MCCLAFFERTY and BRIAN WEIR

**THE UNITED STATES DISTRICT COURT FOR
 THE CENTRAL DISTRICT OF CALIFORNIA**

RICHARD CEJA, an individual,
 FINN O' MCCLAFFERTY, an
 individual, BRIAN WEIR, an
 individual,

Plaintiffs.

v.

THE CITY OF BEVERLY HILLS, a
 California municipal corporation,
 THE BEVERLY HILLS POLICE
 DEPARTMENT, a municipal
 agency, CAPT. MARK ROSEN, an
 individual, CAPT. LINCOLN
 HOSHINO, an individual, CAPT.
 ELIZABETH ALBANESE, an
 individual, CAPT. MAX SUBIN, an
 individual, SHELLY OVRUM, an
 individual, LT. DAVID HAMEL, an
 individual, LT. SHAN DAVIS, an
 individual, LT. TERRY NUTALL,
 an individual, LT. RENATO
 MORENO, an individual, CHIEF
 DAVID SNOWDEN, an individual,
 OFFICER ANNE MARIE
 LUNSMAN, an individual, LT.
 KEVIN ORTH, an individual, SGT.
 DALE DRUMMOND, an individual,
 DET. MARK SCHWARTZ, an
 individual, and DOES ONE through
 ONE HUNDRED (1-100),

Defendants.

CIVIL ACTION NO. 2:22-cv-05884-MEMF-AGR

**DECLARATION OF JOHN A.
 SCHLAFF IN RESPONSE TO OSC
 AND PROOF OF SERVICE ON ALL
 OF THE 14 DEFENDANTS EXCEPT
 DEFENDANT DAVID HAMEL**

DECLARATION OF JOHN A. SCHLAFF

PRINTED ON RECYCLED PAPER

1 I, John A. Schlaff declare and say as follows:

2 1. I am an attorney at law licensed to practice before all the Courts of the State of
3 California. I am also admitted to practice before the Federal Courts in the Central
4 District of California. I am the principal of the Law Offices of John A. Schlaff (the
5 “Schlaff Firm”) counsel to the Plaintiffs in this matter Richard Ceja, Finn McCaferty
6 and Brian Weir (“Plaintiffs”), herein. Except where otherwise specifically noted,
7 through my representation of Plaintiffs, I have garnered personal knowledge of each
8 of the facts set forth in this declaration and, if called upon to do so, I could and would
9 testify competently to each and all of the following facts.

10 2. I am making this declaration in response to the Court’s recent OSC. I
11 apologize for the delay in requesting the issuance of the summons and its subsequent
12 service on the Defendants in this matter. As discussed in greater detail below, the
13 delay was caused by a combination of clerical errors and software failures in my
14 offices. The clerical errors were the result of human error and were not intentional.
15 The software failures, on the other hand, were unforeseen. As is also discussed, my
16 office has taken steps to address these issues and prevent them from happening in the
17 future, and has now also effected service on all of the fourteen Defendants in this
18 matter except David Hamel who I am informed is evading service in this matter. I
19 deeply regret any inconvenience this may have caused and ask for the Court’s
20 understanding in this matter on behalf of my clients who are not responsible for this
21 situation. As I discuss, I will be submitting under separate cover a motion (the
22 “Motion to Enlarge Time) to enlarge Plaintiff’s time to serve the Summons and
23 Complaint (collectively, the “Service Documents”) on Mr. Hamel.

24 **THE SNAFU AND THE REASONS FOR IT**

25 3. On August 22, 2022, my office filed the Complaint (Dckt No. 1) on behalf of
26 the Plaintiffs herein. Although I had the location of some of the Defendants, I did not
27 know the location of others and Plaintiffs -- and my offices on behalf of them -- were
28 in the process of investigating their whereabouts. It is my recollection that I

1 calendared a date approximately three weeks from the filing of the Complaint as an
2 intended “soft” deadline to get the summons issued and the Service Documents
3 served.

4 4. I have a programming background and have developed software to automate my
5 practice including a calendaring system that works in an integrated way with my
6 notes, word-processing and research software. I rely on it extensively in my work.
7 In the first half of this year, I made modifications to the software which introduced a
8 bug which apparently caused post-modification calendaring entries to not be
9 permanently stored and thus stopped me from receiving “tickler” notifications.
10 Although I did have a noIn-automated backup system with another attorney who was
11 of-counsel to my offices, he was unfortunately killed by a hit and run driver
12 approximately a year ago. I recently made arrangements with another attorney to
13 take his place with respect to that other functions within my office, but shortly after
14 we entered into discussions to set-up that alternative system, he received a diagnosis
15 of having an advanced cancer requiring him to take time off for tests and treatment
16 which slowed our setting up the alternative system. In any event, I did not receive
17 the appropriate tickler notices from either my automated or non-automated
18 calendaring systems with respect to the Summons Issuance.

19 5. I had thought that the Service Documents had gone out for service in due
20 course. I was mistaken. I ultimately realized that the foregoing snafu and that the
21 Service Documents were not out for service on or about November 16, 2022, when I
22 requested the issuance of a summons from the Court and started the service process.
23 Shortly thereafter, this Court issued the pending OSC to which this declaration
24 responds.

25 6. As I discuss below, there are fourteen defendants in this action. Two of them --
26 the City of Beverly Hills (the “City”) and the Beverly Hills Police Department (the
27 “BHPD”) are institutional defendants (the City and BHPD, thus, are hereinafter
28 referred to as the “Institutional Defendants”). The twelve remaining Defendants are

1 individuals, three of whom reside outside of California (the “Out of State
2 Defendants”) with the rest residing in state. All of the defendants except David
3 Hamel have now been served as I discuss and offer proof of below.

4 **SERVICE ON THE INSTITUTIONAL DEFENDANTS**

5 7. On December 6, 2022, I personally traveled to the City Hall of Beverly Hills (at
6 464 North Rexford Drive, Beverly Hills and asked for someone authorized to accept
7 service for the City and the BHPD. A woman who identified herself as Michelle
8 Vaeraga, and as being a person in the City Clerk’s office authorized to accept service
9 on behalf of BHPD and the City came to the entrance of City Hall and accepted
10 service copies of the Service Documents addressed to the City and the BHPD.

11 **SERVICE ON THE OUT-OF-STATE INDIVIDUAL DEFENDANTS**

12 8. I am informed that Defendant Lincoln Hoshino resides in Evergreen Colorado
13 and was so informed at the time that I prepared the Summons. At the time of
14 preparing the Summons, I had been informed that Defendants Shan Davis and Terry
15 Nutall were still residing in the State of California. Upon attempting to serve them,
16 however, we discovered that Messrs. Davis and Nutall had since moved from the
17 California addresses and through further investigation learned that Davis and
18 Hoshino had moved to the addresses listed for them immediately below. As such, on
19 December 8, 2022 I served each of those out-of-state individual defendants consistent
20 with California Statute CCP § 417.20 by placing the Service Documents in a sealed
21 envelope and transmitting same via certified mail, return receipt requested addressed
22 as follows:

23 CAPT. LINCOLN HOSHINO
24 29191 Hidden Village Dr,
Evergreen, CO 80439

25 LT. SHAN DAVIS
26 191 Wynnehaven Beach Rd
Mary Esther, Florida 32569

27 Terry Nutall
28 9274 E Via De Vaquero Dr
Scottsdale, AZ 85255

SERVICE ON THE IN-STATE INDIVIDUAL DEFENDANTS
OTHER THAN DAVID HAMEL

9. I attach hereto as Exhibit "A" a proof of service which I received from my process server with respect to Defendant Mark Rosen." **DECLARATION OF JOHN A. SCHLAFF IN RESPONSE TO OSC AND PROOF OF SERVICE ON ALL OF THE 14 DEFENDANTS EXCEPT DEFENDANT DAVID HAMEL"**

10. During the week of December 6, 2022, I made several visits to the BHPD (at 455 North Rexford Drive; Beverly Hills, CA 90210) in an attempt to serve the rest of the in-state defendants. Ultimately, on or about December 6, 2022, a police officer who identified herself as Officer Nica, Badge No. 555, and who stated that she was authorized to accept service on behalf of Defendants Renato, Albanese, Subin, Moreno, Lunsman\, Drummond, Schwartz -- all of whom, I am informed, still work at the BHPD. I handed her a set of envelopes containing the Service Documents which were addressed to each of those persons. Although I believe that that in itself completed service on the aforementioned defendants, in an abundance of caution, I also mailed today via first class mail copies of the Service Documents to each of them.

11. On December 7, 2022 I traveled again to Beverly Hills City Hall and went to the human resources department on the third floor there. I personally served Defendant Shelley Ovrom there by handing her a sealed envelope addressed to her containing the Service Documents.

OUR ONGOING EFFORTS TO SERVE DEFENDANT HAMEL

12. Shortly after the Court issued the Summons in this matter, I made arrangements for a process server called Michalsen Attorney Service to serve Mr. Hamel. They have informed me that they have made several attempts to serve him, but to date have been unsuccessful because he has been actively evading service refusing to come to the door to receive it. Their efforts continue and I anticipate that

1 he will be personally served in the next couple of weeks. I also intend to bring a
2 motion next week for an order of service by publication on Mr. Hamel.

3 13. Arguably, were this matter to be dismissed against Defendant Hamel at this
4 juncture, my clients would be presented with statutes of limitations issues associated
5 therewith. For this reason, I ask the Court's indulgence in this regard and that the
6 Court grant the Motion to Enlarge Time.

7 I declare under penalty of perjury under the laws of the State of California that the
8 foregoing is true and correct and that this declaration was executed on December 9,
9 2022.

10
11 / S /

12 _____
John A. Schlaff

EXHIBIT “A”

MICHELSON ATTORNEY SERVICE: 818-337-7150: 12/06/22; 14:15

Attorney or Party without Attorney: JOHN A. SCHLAFF, Bar #135748 THE LAW OFFICES OF JOHN A. SCHLAFF 2355 WESTWOOD BLVD, NO. 424 LOS ANGELES, CA 90064 Telephone No: 310-474-2627				For Court Use Only	
Attorney for: Plaintiff					
Insert name of Court, and Judicial District and Branch Court: United States District Court Central District Of California					
Plaintiff: RICHARD CEJA Defendant: THE CITY OF BEVERLY HILLS, et al.					
PROOF OF SERVICE SUM-CIVI/CASE & COMP		Hearing Date:	Time:	Dept/Div:	Case Number: 2:22-cv-05884-MEMF-AGR

1. At the time of service I was at least 18 years of age and not a party to this action.
2. I served copies of the SUMMONS IN A CIVIL CASE AND COMPLAINT; , ADR PACKAGE, CIVIL STANDING ORDER, NOTICE OF ASSIGNMENT TO UNITED STATES JUDGES
3. a. Party served: CAPT. MARK ROSEN
4. Address where the party was served: 368 GENIAL CT
Simi Valley, CA 93065
5. I served the party:
 - a. by **personal service**. I personally delivered the documents listed in item 2 to the party or person authorized to receive process for the party (1) on: Fri., Dec. 02, 2022 (2) at: 6:40PM

7. Person Who Served Papers:

a. EDUARDO CHAVEZ

Recoverable Cost Per CCP 1033.5(a)(4)(B)

d. **The Fee for Service was:** \$135.00

e. I am: (3) registered California process server

(i) Independent Contractor

(ii) Registration No.: 745

(iii) County: Ventura



FILE BY FAX

8. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: Tue, Dec. 06, 2022

(EDUARDO CHAVEZ)